

## **TITLE 16. BOARD OF PSYCHOLOGY**

NOTICE IS HEREBY GIVEN that the Board of Psychology (hereinafter "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Radisson Newport Beach, 4545 MacArthur Boulevard, Newport Beach, California, at 9:00 a.m., or as soon as practicable thereafter, on May 21, 2011. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on May 16, 2011, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2930 Business and Professions Code, and to implement, interpret or make specific Sections 2928, 2930, 2960.5, and 2965 Business and Professions Code, and Sections 11415.60 and 11500 of the Government Code, the Board is considering changes to Division 13.1 of Title 16 of the California Code of Regulations (CCR) as follows:

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Business and Professions Code section 2920.1 mandates that protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

This proposal would make specific regulatory changes to enhance the Board's mandate of consumer protection.

This proposal would delegate authority to the Executive Officer to approve settlement agreements for revocation, surrender, or interim suspension of a license or registration.

This proposal would delegate authority to the Executive Officer to order an applicant for licensure to submit to a physical or mental examination if it appears that the applicant may be unable to safely perform the duties and functions of a psychologist, psychological assistant or registered psychologist due to physical or mental illness affecting competency. Additionally, if after receiving the evaluation report the Board determines that the applicant is unable to practice safely, the Board may deny the application.

This proposal would amend the title of Article 7 of Division 13.1 from Restoration of Suspended or Revoked Licenses, to Standards Related to Denial, Discipline, and Reinstatement of Licenses and Registrations to provide clarification of the subject matter of the regulations contained within Article 7.

This proposal would, in addition to conduct described in Business and Professions Code Section 2960, further define “unprofessional conduct” to also prohibit the inclusion of provisions in agreements to settle civil disputes that would forbid another party to the dispute from contacting, cooperating with, or filing a complaint with the Board, or that would require another party to the dispute to attempt to withdraw a complaint the party has filed with the Board.

The definition of “Unprofessional Conduct” would also include failure of the licensee or registrant to provide lawfully requested documents; failure to cooperate with an investigation pending against a licensee or registrant ; failure to report an indictment, charging a felony, arrest, conviction of the licensee or registrant; failure to report any disciplinary action taken by another licensing entity or authority; or failure to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the Board.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Minor.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None.

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because it only affects individual licensees and registrants.

AND

The following studies/relevant data were relied upon in making the above determination: None.

Impact on Jobs/New Businesses:

The Committee has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because it only affects individual licensees and registrants.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are costs associated with a disciplinary order. Costs only affect individuals who are applying for licensure or registration or licensees or registrants being disciplined. These costs may include fees for a physical or mental examination and attorney fees associated with license or registration denial or disciplinary action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because the regulations are applicable only to applicants and licensees or registrants who are disciplined by the Board.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. It may be obtained at the hearing or prior to the hearing upon request from the Board at 2005 Evergreen Street, Suite 1400, Sacramento, California 95815 or on the Board's website at: [www.psychboard.ca.gov](http://www.psychboard.ca.gov).

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may

be obtained at the hearing or prior to the hearing upon request from the Board at 2005 Evergreen Street, Suite 1400, Sacramento, California 95815 or on the Board's website: [www.psychboard.ca.gov](http://www.psychboard.ca.gov).

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

#### CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Linda Kassis  
Address: 2005 Evergreen Street, Suite 1400  
Sacramento, CA 95815  
Telephone No.: (916) 263-0712  
Fax No.: (916) 263-2697  
E-Mail Address: [Linda.Kassis@dca.ca.gov](mailto:Linda.Kassis@dca.ca.gov)

The backup contact person is:

Name: Jeffrey Thomas  
Address: 2005 Evergreen Street, Suite 1400  
Sacramento, CA 95815  
Telephone No.: (916) 263-1617  
Fax No.: (916) 263-2697  
E-Mail Address: [Jeffrey.Thomas@dca.ca.gov](mailto:Jeffrey.Thomas@dca.ca.gov)

Website Access: Materials regarding this proposal can be found at:  
[www.psychboard.ca.gov](http://www.psychboard.ca.gov).